

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION IN U.S. DISTRICT COURTBY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING**OFFENSE CHARGED**Title 15, United States Code,
Section 1 -- Price Fixing

<input type="checkbox"/>	Petty
<input type="checkbox"/>	Minor
<input type="checkbox"/>	Misde- mainer
<input checked="" type="checkbox"/>	Felony

PENALTY:

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA

04 JUL 14 AM 11:02

DEFENDANT - U.S.
RICHARD W. BAYER AG
SIXTH FLOOR, U.S. DISTRICT COURT
100 CALIFORNIA STREET, SAN FRANCISCO, CALIFORNIA

DISTRICT COURT NUMBER

MJJ

D/JH

CR 04-0235**DEFENDANT****IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1) If not detained give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
- 5) On another conviction
- 6) Awaiting trial on other

} Fed'l State

If answer to (6) is "Yes", show name of institution

Has detainer been filed?	<input type="checkbox"/> Yes	{	If "Yes" give date filed
	<input type="checkbox"/> No		

Month/Day/Year

DATE OF ARREST

Or... if Arresting Agency & Warrant were not

Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODYName and Office of Person
Furnishing Information on
THIS FORM

KEVIN V. RYAN

 U.S. Atty Other U.S. AgencyName of Asst. U.S. Atty
(if assigned)

MICHAEL L. SCOTT, Trial Attorney, USDOJ, ANTITRUST DIVISION

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:** SUMMONS NO PROCESS*

If Summons, complete following:

 Arraignment Initial Appearance

Defendant Address:

 WARRANT Bail Amount:

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

PENALTY SHEET

Company: BAYER AG

Maximum Penalties:

1. A fine in an amount equal to the largest of:
 - A. \$10 Million.
 - B. Twice the gross pecuniary gain derived from the crime.
 - C. Twice the gross pecuniary loss caused to the victims of the crime.
2. A term of probation of at least one year but not more than five years.
3. \$400 special assessment.
4. Restitution.

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FILED
04 JUL 14 AM 11:02
RICHARD W. KLECKING
CLERK OF THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PJH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CR 04-0235

11 UNITED STATES OF AMERICA)	No. CR 04-
12 v.)	INFORMATION
13 BAYER AG,)	VIOLATION:
14 Defendant.)	Title 15, United States Code, Section 1 (Price Fixing)
15)	San Francisco Venue

16 The United States of America, acting through its attorneys, charges:

I.

DESCRIPTION OF THE OFFENSE

- 19 1. BAYER AG is made a defendant on the charge stated below.
- 20 2. Beginning in or about July 1995 and continuing until in or about December 2001,
21 defendant and co-conspirators participated in a combination and conspiracy to suppress and
22 eliminate competition by maintaining and increasing the price of certain rubber chemicals sold in
23 the United States and elsewhere. The combination and conspiracy engaged in by the defendant
24 and co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in
25 violation of Section 1 of the Sherman Act (15 U.S.C. § 1).
- 26 3. The charged combination and conspiracy consisted of a continuing agreement,

INFORMATION -- BAYER AG -- PAGE 1

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1 understanding, and concert of action among the defendant and co-conspirators, the substantial
2 term of which was to suppress and eliminate competition by maintaining and increasing the price
3 of certain rubber chemicals in the United States and elsewhere.

4 4. For the purpose of forming and carrying out the charged combination and
5 conspiracy, the defendant and co-conspirators did those things that they combined and conspired
6 to do, including, among other things:

- 7 (a) participating in conversations and meetings to discuss prices of certain rubber
8 chemicals to be sold in the United States and elsewhere;

9 (b) agreeing, during those conversations and meetings, to raise and maintain prices of
10 certain rubber chemicals to be sold in the United States and elsewhere;

11 (c) participating in conversations and attending meetings concerning implementation
12 of and adherence to the agreements reached;

13 (d) issuing price announcements and price quotations in accordance with the
14 agreements reached; and

15 (e) exchanging information on the sale of certain rubber chemicals in the United
16 States and elsewhere.

II.

DEFENDANT AND CO-CONSPIRATORS

19 5. The defendant is an entity organized and existing under the laws of Germany, with
20 its principal place of business in Leverkusen, Germany. During the period covered by this
21 Information, the defendant engaged in the business of producing and selling certain rubber
22 chemicals in the United States and elsewhere.

23 6. Various corporations and individuals, not made defendants in this Information,
24 participated as co-conspirators in the offense charged herein and performed acts and made
25 statements in furtherance of it.

26 7. Whenever in this Information reference is made to any act, deed, or transaction of

1 any corporation, the allegation means that the corporation engaged in the act, deed, or transaction
2 by or through its officers, directors, employees, agents, or other representatives while they were
3 actively engaged in the management, direction, control, or transaction of its business or affairs.

4 III.
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TRADE AND COMMERCE

6 8. Rubber chemicals are a group of additives used to improve the elasticity, strength,
7 and durability of rubber products. Rubber chemicals are used primarily in the manufacture of
8 tires, outdoor furniture, hoses, belts, and footwear.

9 9. During the period covered by this Information, the defendant and co-conspirators
10 manufactured, sold, and distributed rubber chemicals in a continuous and uninterrupted flow of
11 interstate and foreign trade and commerce to customers located in states or countries other than
12 the states or countries in which the defendant and co-conspirators produced rubber chemicals.

13 10. The business activities of the defendant and co-conspirators that are the subject of
14 this Information were within the flow of, and substantially affected, interstate and foreign trade
15 and commerce.

16 IV.
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JURISDICTION AND VENUE

18 11. The combination and conspiracy charged in this Information was carried out, in
19 part, in the Northern District of California within the five years preceding the filing of this
20 Information.

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1 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

2 Dated: 7/13/04

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5 R. Hewitt Pate
6 Assistant Attorney General

Phillip H. Warren

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